



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

| | | |
|----------|--------------------------------------|-------------------|
| 1 | Case Number | 0112/19 |
| 2 | Advertiser | NEDS |
| 3 | Product | Gaming |
| 4 | Type of Advertisement / media | Billboard |
| 5 | Date of Determination | 08/05/2019 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

2.1 - Directed to minors directed primarily to minors

DESCRIPTION OF THE ADVERTISEMENT

This billboard advertisement features text over an orange background. It contains the words "INJECT A LEGEND TO BOOST YOUR ODDS" and "AVAILABLE NOW" followed by the Neds logo. The other side of the billboard shows five imitation player cards with the logo for the product, "LEGENDS BOOST" appearing over the cards. The front player card contains an image of AFL "legend" Peter Daicos. None of these cards are shown in their entirety, although it can generally be seen that there are five cards in total, featuring a player name and statistics for a game that the "legend" played in.

"Gamble responsibly" appears on the billboard, as does the terms and conditions associated with the product, "Recreational customers only. Minimum 1 Legends Boost available per 7 day period on certain bet types. \$100 max bet. Promotional T&Cs apply and available on website."

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:



Footy cards are made for children and they are being used in this billboard. Gambling advertising shouldn't be aimed at children. It is inappropriate.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

RESPONSE TO COMPLAINT REFERENCE NO. 0112/19

Thank you for your letter dated 10 April 2019 and for bringing this complaint to our attention. We are always open to hearing the views of community members either directly or through avenues such as Ad Standards ("AS").

We believe that the advertisement in question is a Neds billboard promoting our "Legends Boost" product on a static billboard located on Warrigal Road at Chadstone (approximately 175 metres from the Batesford Road intersection) ("Ad").

The reason for concern outlined by the community member in your letter of 10 April 2019 is:

"Footy cards are made for children and they are being used in this billboard. Gambling advertising shouldn't be aimed at children. It is inappropriate."

The specific issues raised are in relation to clause 2.1 of the AANA Wagering Advertising & Marketing Communication Code ("the Wagering Code") and in particular that the advertisement is being directed primarily to minors.

Our response to this complaint is set out below.

At the outset and with respect to the views of the community member, we wish to correct some incorrect assertions made in the complaint:

"Footy cards are made for children and they are being used in this billboard."

The Ad is centred around the promotion of Neds' product "Legends Boost". The Ad is accompanied by an image of imitation player cards, with Peter Daicos the main "legend" player represented. Peter Daicos is 57 years old and played AFL between 1979 and 1993. Further, footy cards are not "made for children" as the complainant asserts.

"Gambling advertising shouldn't be aimed at children."

We agree with the complainant's general assertion that gambling advertising should



not be aimed at children. However, this Ad is directed at people who can legally use the product and those that have knowledge of the “legend”. That is, it is clearly aimed at adults and not aimed at children. The Ad is not, having regard to the theme, visuals and language used, directed primarily to minors.

Section 2 of the Wagering Code

As we are an online and telephone wagering business licensed and regulated in Australia, the Wagering Code is applicable to our Ad. Although, for the reasons mentioned above and below, we do not believe our Ad contravenes the Wagering Code.

2.1 – Directed to Minors

We believe that our Ad, having regard to the theme, visuals and language used, is not directed to persons under the age of 18 years of age.

The Ad promotes Neds’ new product, “Legends Boost”. More than half of the billboard is occupied with text relevant to the product being promoted, and the Neds logo. The billboard also shows an AFL “legend”, Peter Daicos on an imitation player card in front of a number of other “legends” on imitation cards. These cards are used as a reference point to show various statistics of the “legend” in a certain historical game.

Peter Daicos is 57 years old and played AFL between 1979 and 1993. The Ad is focused on advertising Neds’ product “Legends Boost”. There is nothing in this Ad to attract minors, as minors would not recognise or identify the legend.

It is illegal to open a gambling account if you are under 18 years of age. Neds do not have any customers under 18 years of age. The Ad is directed at people who are legally able to open an account with Neds, or who already have an account with Neds. The reference to “boost your odds” makes it clear this is not a product for minors. The Ad is directed at customers who connect in some way with the “legend”. Having regard to the theme, visuals and language used, the Ad is not directed at minors.

2.2 – Depiction of Minors

We believe that our Ad does not depict a person under the age of 18 years of age in an incidental role or at all.

2.3 – Depiction of 18-24 year olds wagering

We believe that our Ad does not depict a person aged 18-24 years old engaged in wagering activities.

2.4 – Wagering in combination with the consumption of alcohol

We believe that our Ad does not portray, condone or encourage wagering in combination with the consumption of alcohol.



2.5 – Stated or implied promise of winning

We believe that our Ad does not state or imply a promise of winning.

2.6 – Means of relieving a person's financial or personal difficulties

We believe that our Ad does not portray, condone or encourage participation in wagering activities as a means of relieving a person's financial or personal difficulties.

2.7 – Sexual success and enhanced attractiveness

We believe that our Ad does not state or imply a link between wagering and sexual success or enhanced attractiveness.

2.8 – Excessive participation in wagering activities

We believe that our Ad does not portray, condone or encourage excessive participation in wagering activities.

2.9 – Peer pressure to wager or abstention from wagering

We believe that our Ad neither portrays, condones or encourages peer pressure to wager nor disparages abstention from wagering activities.

Section 2 of the AANA Code of Ethics

For the reasons mentioned above and below, we do not believe our Ad contravenes the AANA Code of Ethics.

2.1 – Discrimination

We believe that our Ad does not discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.2 - Exploitative and degrading

We believe that our Ad does not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.

2.3 – Violence

We believe that our Ad does not present or portray violence.

2.4 – Sex, sexuality and nudity

We believe that our Ad does not treat sex, sexuality or nudity with insensitivity to the relevant audience.

2.5 – Language

We believe that our Ad uses language which is appropriate in the circumstances, and is not strong or obscene.



2.6 - Health and Safety

We believe that the Ad does not depict material contrary to prevailing community standards on health and safety.

AANA Code for Advertising and Marketing Communications to Children

We do not consider that the AANA Code for Advertising and Marketing Communications to Children applies as the Ad is not, having regard to the theme, visuals and language used, directed primarily to children or for product which is targeted toward or having principal appeal to children.

AANA Food and Beverages Marketing and Communications Code

We do not consider that the AANA Food and Beverages Marketing and Communications Code applies as the Ad does not advertise food or beverage products.

We sincerely hope that the clarification provided here resolves the concerns of both Ad Standards and the community member.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (the Wagering Code).

The Panel noted the complainant's concern that the advertisement promotes collecting cards which is attractive to children, and contains themes which are attractive to children.

The Panel reviewed the advertisement and noted the advertiser's response.

The Panel noted that the advertiser is a company licensed in a State or Territory of Australia to provide wagering products or services to customers in Australia and that the product advertised is a wagering product or service and therefore the provisions of the Wagering Code apply.

As per the AANA Wagering Advertising and Marketing Communication Code Practice Note:

"The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia..

In particular the Panel considered Section 2.1 of the Wagering Code which provides: 'Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to theme, visuals and language used, be directed primarily to Minors'.



The Panel noted that Minors are defined in the Code as persons under the age of 18 years.

The Panel noted that this billboard advertisement is promoting the use of a feature in the gambling application, known as a “legend”. The advertisement features a bright orange background and the text “Inject a legend to boost your odds” and “Available now”. The other side of the billboard includes five imitation playing cards with the front one showing former AFL player Peter Daicos.

The Panel noted the complainant’s concern that the advertisement promotes collecting cards which is attractive to children, and contains themes which are attractive to children.

The Panel noted the advertiser’s response that the advertisement does not mention “collecting cards” at any point.

The Panel also considered that while some retailers such as Coles and Woolworths do have child-centric promotions, many adults collect various things such as baseball cards and the idea of a collection is not only a children’s pastime.

The Panel noted the advice provided in the Practice Note to Section 2.1: “Whether an advertisement or marketing communication is “directed primarily to minors” is an objective test based on a range of factors. It is a combination of visual techniques and age of characters and actors which will mean the marketing communication is directed primarily to minors.”

The Panel noted they had previously considered a television advertisement for the same promotion in case 0085/19, in which:

“The Panel considered the depiction of NRL ‘legend’ Steve Roach, and considered that although he is well-known by some adults as a rugby league player, his playing career ended in 1992 and was followed by many years as a commentator. The Panel considered that while some children may be aware of who he is, he is not a person who would be of great appeal to children.

The Panel considered that the advertisement is visually dark and the music is not particularly catchy or upbeat. The Panel considered that the advertisement has no theme, visuals or language that would be attractive to or directed to minors and considered that the advertisement was not targeting children and was not directed primarily to minors. The Panel considered that the advertisement was clearly directed at an adult audience.”

Unlike the television version of the advertisement, the Panel considered that the current advertisement was brightly coloured and would be attractive to children.



However the visible player on the advertisement, Peter Daicos, would not be recognised by most children and would be more recognisable by an adult audience. The Panel considered that the concept of collecting cards would be attractive to children, however the advertisement itself does not use the words 'collect' or 'cards' and the images on the billboard could be posters rather than cards.

The Panel acknowledged that there is a strong concern in the community relating to the visibility and attractiveness of gambling ads to children. The Panel considered that this billboard advertisement would likely be attractive to children given the bright colours and the theme of football cards, however the advertisement was not directed primarily to minors and therefore the Panel determined that the advertisement did not breach Section 2.1 of the Wagering Code.

Finding that the advertisement did not breach the Wagering Code on other grounds, the Panel dismissed the complaint.

